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UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF NEW YORK

Case No. 13-11396-mg

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In the Matter of:

NEWLAND INTERNATIONAL PROPERTIES, CORP.,

Debtor.

- - - - -x

United States Bankruptcy Court

One Bowling Green

New York, New York

May 17, 2013

10:05 AM

B E F O R E:

HON. MARTIN GLENN

U.S. BANKRUPTCY JUDGE

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(CC: Doc no. 7) Final Hearing RE: Debtor's Motion for Entry of an Order (I) Authorizing Debtor to Continue Existing Cash Management System, Bank Accounts, and Business Forms and (II) Granting Extension of Time to Comply with the Requirements of Section 345(b) of the Bankruptcy Code filed by David Michael Feldman.

(CC: Doc no. 9) Final Hearing RE: Debtor's Motion for Entry of Interim and Final Orders (A) Authorizing the Use of Cash Collateral and (B) Scheduling a Final Hearing filed by David Michael Feldman on behalf of Newland International Properties, Corp.

(CC: Doc no. 14) Debtor's Motion for Entry of an Order Pursuant to Sections 105(a), 327, 328 and 330 of the Bankruptcy Code Authorizing the Debtor to Employ and Retain Certain Professionals Utilized in the Ordinary Course of Business filed by David Michael Feldman on behalf of Newland International Properties, Corp.

1 (CC: Doc no. 16) Debtor's Application for an Order Authorizing  
2 and Approving the Employment and Retention of Epiq Bankruptcy  
3 Solutions, LLC as Balloting and Tabulation Agent for the Debtor  
4 Pursuant to 11 U.S.C. Section 327(a) and Fed. R. Bankr. P.  
5 2014(a) Nunc Pro Tunc to the Petition Date filed by David  
6 Michael Feldman on behalf of Newland International Properties,  
7 Corp.

8  
9 (CC: Doc no. 20) Debtors Application for an Order Approving the  
10 Employment and Retention of Gibson, Dunn & Crutcher LLP as  
11 Counsel for the Debtor in Possession nunc pro tunc to the  
12 Petition Date filed by David Michael Feldman on behalf of  
13 Newland International Properties, Corp.

14  
15 (CC: Doc no. 21) Debtors Application for an Order Approving the  
16 Employment and Retention of Adames, Duran, Alfaro & Lopez As  
17 Panamanian Counsel for the Debtor in Possession nunc pro tunc  
18 to the Petition Date filed by David Michael Feldman on behalf  
19 of Newland International Properties, Corp.

20  
21 (CC: Doc no. 22) Debtors Application for Entry of an Order  
22 Authorizing the Employment and Retention of Gapstone LLC as  
23 Financial Advisor to the Debtor in Possession nunc pro tunc to  
24 the Petition Date filed by David Michael Feldman on behalf of  
25 Newland International Properties, Corp.

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(CC: Doc no. 41, 48, 49) Hearing RE: Notice of Presentment of  
an Order Approving the Employment and Retention of Greenberg  
Traurig LLP as Special Real Estate Counsel for the Debtor in  
Possession nunc pro tunc to the Petition Date filed by Eric J.  
Wise on behalf of Newland International Properties, Corp.

(CC: Doc no. 35, 36, 44, 47) Motion for Entry of an Order  
Authorizing the Debtor to File Under Seal Certain Confidential  
Plan Supplement Documents.

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16 BY: NATHAN A. HAYNES, ESQ.

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19 UNITED STATES DEPARTMENT OF JUSTICE

20 Office of the United States Trustee

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22 21st Floor

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24

25 BY: SUSAN D. GOLDEN, ESQ.

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1 P R O C E E D I N G S

2 THE COURT: All right, please be seated. We're here  
3 in Newland International Properties, Corp., number 13-11396.

4 MR. WISE: Your Honor, Eric Wise, Gibson, Dunn &  
5 Crutcher, for the debtor, Newland International Properties,  
6 Corp. Good morning.

7 We have nine items on our agenda to be heard this  
8 morning. Eight of them are not contested. One of them is the  
9 subject of an objection. I'm going to go through the various  
10 motions in the order in the agenda, starting out with the first  
11 motion, which is the debtor's motion for the entry of a new  
12 interim -- a second interim order with respect to the cash  
13 management system, and the granting of the extension of time to  
14 comply with the requirements of 345(b).

15 On the first-day hearing on May 1st, the Court entered  
16 an interim order, and the discussion at the first-day hearing,  
17 was possibly doing a second interim order. We've done that.  
18 We've provided the revised order or the second interim order in  
19 black-line form to the clerk. And that order provides for an  
20 extension to June 7th, which in the context of our schedule, is  
21 a -- gives us roughly ten days after the confirmation hearing,  
22 in order to -- assuming that the plan is confirmed -- go  
23 effective.

24 THE COURT: Ms. Golden?

25 MS. GOLDEN: Your Honor, in terms of --



1 THE COURT: Just pull the microphone a little closer  
2 to you, okay?

3 MS. GOLDEN: In terms -- let me just start generally  
4 in terms of the uncontested matters. We have reviewed all of  
5 the various retention orders and the interim cash collateral  
6 orders, and everything else, and we don't have any objection to  
7 the form or substance of those.

8 THE COURT: Thank you. Anybody else wish to be heard  
9 with respect to the second interim order for use of -- for the  
10 cash management system, et cetera?

11 All right, it's granted.

12 MR. WISE: Thank you, Your Honor. Next on the agenda  
13 is a similar motion for the entry of further interim relief for  
14 the use of cash collateral. Again, we provided copies of the  
15 second interim cash collateral order to the clerk and along  
16 with a black-line. And again, that would extend that interim  
17 order for the use of cash collateral to June 7th, ten days  
18 after the confirmation hearing.

19 THE COURT: Is there any change in the budget?

20 MR. WISE: There's no change in the budget.

21 THE COURT: All right. Does anybody wish to be heard  
22 with respect to the cash collateral motion?

23 All right, that's granted as well.

24 MR. WISE: Your Honor, the next motion is for the  
25 entry of an order related to ordinary course professionals and

1 the retention of ordinary course professionals. The debtor's  
2 motion and order lists three ordinary course professionals,  
3 each of which are Panamanian law firms that provide legal  
4 services to the debtor in the ordinary course, such as deed  
5 processing, tax payments, and general litigation in Panama.

6 There's a monthly cap of 10,000 dollars per  
7 professional, and also a maximum of 50,000 dollars per  
8 professional, which is consistent with historical invoices for  
9 these firms for the debtor.

10 THE COURT: The one comment I would have there, as I  
11 gather, Ms. Golden, you don't have any objections to this --  
12 this was one of those that you indicated no objection to --  
13 it's -- particularly dealing with foreign law firms, it's  
14 extremely important that they follow the U.S. Trustee  
15 Guidelines and the court's guidelines with respect to  
16 preparation of fee applications.

17 In the past, at times, we've had some difficulty  
18 because they're not used to our system and what the level of  
19 detail that's required to be shown. So it's really very  
20 important that you or your colleagues have a discussion with  
21 all the ordinary course professionals about -- I mean, they're  
22 going to get paid as ordinary course professionals, but  
23 nevertheless, their applications get reviewed.

24 MR. WISE: We will coordinate with them --

25 THE COURT: Okay.

1 MR. WISE: -- and ensure that they understand how they  
2 properly prepare their applications --

3 THE COURT: Okay.

4 MR. WISE: -- for their fees.

5 THE COURT: All right. Anybody else wish to be heard  
6 with respect to the application to retain ordinary course  
7 professionals?

8 All right, that's granted.

9 MR. WISE: Thank you, Your Honor. The next item on  
10 the agenda, Your Honor, is the debtor's application for an  
11 order authorizing the employment and retention of Epiq  
12 Bankruptcy Solutions, LLC, as balloting and tabulation agent.  
13 Epiq has obviously significant amount of experience as a  
14 balloting and tabulation agent in Chapter 11 cases, including  
15 prepackaged Chapter 11 cases.

16 Epiq had already been retained as the debtor's claims  
17 and noticing agent in this case. And they've received a 35,000  
18 dollar retainer in connection with their retention, as both  
19 claims agent and as balloting and tabulation agent at this  
20 point.

21 THE COURT: All right. Anybody wish to be heard?

22 All right, it's granted.

23 MR. WISE: Thank you, Your Honor. The fifth item on  
24 the agenda is the debtor -- the debtor's application for an  
25 order approving the employment and retention of Gibson, Dunn &

1 Crutcher as counsel for the debtor. Gibson Dunn has been  
2 providing services to the debtor since 2007 in connection with  
3 the original issuance of the bonds, and has continued to  
4 provide services in connection with the bonds and ultimately  
5 their restructuring.

6 Gibson Dunn did receive a retainer of 250,000 dollars  
7 in advance of the case. That retainer was used in its entirety  
8 pre-petition. And any residual amounts are being waived by  
9 Gibson, Dunn & Crutcher.

10 THE COURT: The waiver includes any -- for any work  
11 that Gibson Dunn, pre-petition, has done for the debtor?

12 MR. WISE: That's right.

13 THE COURT: Okay. All right.

14 MR. WISE: That's right.

15 THE COURT: Anybody else wish to be heard with respect  
16 to the Gibson Dunn retention application?

17 All right, it's granted.

18 MR. WISE: Thank you, Your Honor. The next -- item 6  
19 on the agenda is the debtor's application for an order  
20 approving the employment of Adames, Duran, Alfaro & Lopez, also  
21 known as Adural, as Panamanian counsel for the debtor. The  
22 debtor is a Panamanian corporation, and Adural serves as the  
23 chief Panamanian counsel in the restructuring and has been  
24 advising the debtor for several years and assisting it with the  
25 restructuring of its pre-petition notes, and particularly with

1 respect to the Panamanian aspects: the collateral, et cetera.

2 The debtor's intention is to continue to work with  
3 Adural in connection with the restructuring and with the  
4 issuance of the notes in connection with the plan. And the --  
5 we have included in our orders, both in Gibson Dunn's order and  
6 with respect to Adural, a provision that makes it clear that  
7 there's not an overlap between the two firms. Obviously, they  
8 do Panamanian law, and we are focusing exclusively on U.S. law  
9 issues.

10 THE COURT: And just address the issue of any pre-  
11 petition amounts owed to the firm.

12 MR. WISE: Adural has been paid in full for all of  
13 their pre-petition amounts.

14 THE COURT: All right. Again, Mr. Wise, I think the  
15 one thing I would -- is anybody from the firm here?

16 MR. WISE: There's no one from the firm Adural here.

17 THE COURT: Is anybody present on the phone from the  
18 firm?

19 MR. WISE: I don't believe so.

20 THE COURT: All right. Once again, I would just  
21 emphasize the importance of complete compliance with our  
22 requirements for preparation of fee applications. I don't want  
23 to have to start bouncing fee applications. They've got to be  
24 done right. They've got to be done with the level of detail  
25 that we require. It's -- I'm just emphasizing it because in

1 past matters, I've found foreign law firms are not ordinarily  
2 familiar with the requirements of the Bankruptcy Code and our  
3 court's requirements and the U.S. Trustee's requirements. It's  
4 just going to result in fees -- and that goes for both fees and  
5 expenses. I expect full expense detail from any counsel,  
6 foreign or domestic. And I'm just harping on it. Nothing  
7 against them at all. But I just -- the past experience has  
8 shown a continuing problem. So with that, anybody else wish to  
9 be heard?

10 All right, it's approved.

11 MR. WISE: Thank you, Your Honor. The next item on  
12 the agenda, agenda item 7, is the debtor's application for the  
13 entry of an order authorizing the employment and retention of  
14 Gapstone LLC as financial advisor for the debtor. Gapstone has  
15 been the debtor's financial advisor for a year and a half on  
16 the matter of the restructuring of these notes and other  
17 matters for the debtor. They provide a broad range of  
18 corporate advisory services, including corporate and financial  
19 restructuring services.

20 The debtor -- excuse me -- Gapstone has intimate  
21 knowledge of the debtor's business and affairs, and is being  
22 retained because of its institutional knowledge, its  
23 understanding of Latin American project transactions such as  
24 this.

25 Gapstone did receive 110,000-dollar retainer prior to

1 the petition date, which was consumed in its entirety. And  
2 Gapstone had waived any pre-petition claim with respect to its  
3 unpaid pre-petition fees.

4 THE COURT: All right. Does their indemnification  
5 comply with the Blackstone protocol?

6 MR. WISE: Yes, I believe they conformed that to  
7 their -- the Blackstone protocol.

8 MS. GOLDEN: Yes, Your Honor. Originally the order  
9 didn't. It was drafted in a way that was not in conformance.  
10 And we negotiated it so that it complies with all of the terms  
11 of the Blackstone protocol, and what's standard --

12 THE COURT: All right. So you're satisfied at this  
13 stage?

14 MS. GOLDEN: Yeah. Long story short, yes.

15 THE COURT: Okay. Anybody else wish to be heard with  
16 respect to Gapstone's retention?

17 All right, it's approved.

18 MR. WISE: Thank you, Your Honor. The eighth item on  
19 the agenda is for an order approving the employment and  
20 retention of Greenberg Traurig as special real estate counsel  
21 to the debtor under 327(e). Greenberg Traurig had been special  
22 counsel to the debtor for approximately eight years, and has  
23 been instrumental in negotiating the licensing concessions in  
24 particular, with the Trump organization, and will continue in  
25 that capacity, in the case.

1 And Greenberg Traurig has not yet been paid for its  
2 pre-petition services in April, which I have an outstanding  
3 amount of about 79,000 dollars. They have a 50,000 dollar  
4 retainer, which they're seeking authority to apply to the pre-  
5 petition amounts.

6 THE COURT: Ms. Golden?

7 MS. GOLDEN: It was my understanding that any pre-  
8 petition balance in connection with their retainer was going to  
9 be applied at the interim fee -- at the fee hearing -- at the  
10 first interim fee hearing.

11 THE COURT: Let me make -- I want to make sure I  
12 understand. Because they -- their retainer is not sufficient  
13 to cover their pre-petition statements.

14 MS. GOLDEN: Right.

15 THE COURT: So what, it's going to leave a balance of  
16 29,000 dollars --

17 MR. WISE: That's right.

18 THE COURT: -- Mr. Wise?

19 MR. WISE: That's right.

20 THE COURT: Which they're not waiving.

21 MR. WISE: Which they are not waiving.

22 THE COURT: And they are being retained as special --

23 MS. GOLDEN: 327(e) counsel.

24 THE COURT: -- 327(e) counsel. So are you satisfied  
25 Ms. Golden?



1 MS. GOLDEN: Yes, Your Honor.

2 THE COURT: All right. It's approved.

3 MR. WISE: Okay. The last item on our agenda is the  
4 debtor's motion for an order authorizing the debtor to file  
5 under seal certain confidential plan supplement documents. We  
6 filed a motion for the entry of an order to file these  
7 documents under seal. Specifically, these documents relate to  
8 amendments to agreements with the Trump organization, which are  
9 intended to effect the licensor concessions that are described  
10 in the plan disclosure documents and the material substance is  
11 contained in those disclosure documents.

12 We've asked to file them -- the amendments themselves  
13 as redacted documents, and we've also asked to file the  
14 underlying documents entirely under seal, so that the -- to  
15 serve the purpose of transparency, the actual amendments will  
16 be filed in redacted form to show --

17 THE COURT: Well, but the amendment -- I don't know  
18 what the new amendments are going to look like, because -- but  
19 I've looked at -- there's a whole series of amendments which  
20 you're seeking to file under seal.

21 MR. WISE: Right.

22 THE COURT: They're not particularly revealing,  
23 because they have a couple of sentences that they amend  
24 specific sections of very lengthy documents. So filing  
25 amendments isn't going to tell anybody very much, I don't

1 think.

2 MR. WISE: Well, the filing of the -- I mean, the  
3 filing of the amendments that are affecting the amendments that  
4 affect the license concessions, the other documents, which are  
5 the underlying documents, including the amendments, for  
6 example, 1 through 7 to the licensing agreement, the documents  
7 themselves contain confidential information in a large  
8 quantity. And the notion --

9 THE COURT: Well, let me first tell you how unhappy I  
10 am that you -- when did you deliver copies of these documents  
11 to the U.S. Trustee? Yesterday? Ever?

12 MS. GOLDEN: I got an e-mail from counsel at about  
13 9:15 this morning, saying that the documents were dropped off  
14 with the service center in our building. And I -- they never  
15 came up to me, nor would I go down to the service center. And  
16 then counsel gave me a copy right here in the courtroom.

17 THE COURT: You know, Mr. Wise, I spent several hours  
18 yesterday poring through this very thick notebook of documents  
19 you're seeking to file under seal. Your motion is denied  
20 without prejudice. Okay?

21 I take very seriously any request to seal documents.  
22 Okay? You're about to run this case off the track. Okay?  
23 You can't do what you did. Any sealing motion has to provide  
24 unredacted documents to the U.S. Trustee with sufficient time  
25 for them to determine. They filed their objection because they

1 hadn't seen any documents.

2           You now -- I thought they got them yesterday. Now, I  
3 find out they didn't even get them yesterday. Okay? And if  
4 you really think that the U.S. Trustee can exercise its  
5 responsibility when you dump a three-inch or a four-inch binder  
6 on them at the start of a hearing, for sealing of documents, my  
7 standard -- and I've written a bunch of opinions on it, I'm  
8 sure you're aware of it, they're cited in the U.S. Trustee's  
9 objection -- is that redaction rather than wholesale sealing is  
10 my approach to documents.

11           Yes, when documents -- and yes, it looks like there  
12 are things within these documents that may properly be  
13 redacted. But I don't believe in wholesale redacting. And I  
14 don't believe -- this is an adversary process. The importance  
15 of transparency in bankruptcy is essential. There is no  
16 committee at this point, Ms. Golden, is that right?

17           MS. GOLDEN: No, Your Honor. Because this is a pre-  
18 negotiated case, we're holding off. And if things derail --

19           THE COURT: All right.

20           MS. GOLDEN: -- toward the end, then we'll solicit.  
21 But we've agreed not to.

22           THE COURT: So you've already probably -- you may have  
23 knocked your case off the rails in getting your confirmation  
24 hearing when you want. Okay? You can't proceed that way in my  
25 court, Mr. Wise. Why you thought so, I don't know.

1 MR. WISE: Just to explain for a moment. I mean, the  
2 amendment documents themselves --

3 THE COURT: They're not done yet.

4 MR. WISE: And they weren't done to a point where it  
5 was available until yesterday. And there was some confusion  
6 about the delivery of the documents. And I apologize that they  
7 weren't delivered to the U.S. Trustee until this morning or --

8 THE COURT: Well, those are the existing documents.  
9 Those aren't even the new documents. Those, I haven't seen yet  
10 either. All I've seen is this whole series of prior  
11 agreements, amendments. Do I have what you're proposing now?

12 MS. WEINER: Yes, Your Honor. Shira Weiner; Gibson,  
13 Dunn & Crutcher.

14 THE COURT: When did I get them?

15 MS. WEINER: They're in that binder. I'm sorry if  
16 there's some confusion. Documents 5 through 8 in the binder --

17 THE COURT: Those are the ones that you want to  
18 redact.

19 MS. WEINER: -- are the new amendments that would be  
20 redacted.

21 THE COURT: I did look at those. Okay. It wasn't  
22 clear to me what those were.

23 MS. WEINER: Yes. Sorry, I apologize for not being  
24 that clear. So documents 1 through 4 in the binder are the  
25 underlying agreements that are already in existence. And 5

1 through 8 are the amendments -- the new amendments that are  
2 being proposed to be in redacted form, with the redactions  
3 indicated in the highlighting. Thank you.

4 THE COURT: Your motion is denied without prejudice.  
5 You may have just lost your confirmation hearing.

6 MR. WISE: What we would intend to do --

7 THE COURT: Go negotiate with the U.S. Trustee over  
8 sealing and redaction. Okay.

9 MR. WISE: Thank you, Your Honor.

10 THE COURT: You know, I spent time -- just stand up  
11 there at the podium. I spent some time reviewing the  
12 documents, trying to understand what they are and why the  
13 documents in their entirety need to be sealed. I certainly  
14 read in the disclosure statement that you are offering to make  
15 the documents available -- I guess unredacted documents  
16 available to parties entitled to vote, which I guess you're  
17 saying is only the secured creditors -- they're the only  
18 impaired class, in your view. Is that right?

19 MR. WISE: That's correct.

20 THE COURT: If they sign the confidentiality  
21 agreement. That may be sufficient. I don't know. But we have  
22 an adversary system. And unless the U.S. Trustee has had an  
23 opportunity with sufficient time to review the documents and  
24 determine what its position is, I'm not going to rule on the  
25 merits of your motion. Okay?

1 And a couple of things I've observed. Obviously,  
2 you've had considerable negotiations with the Trump  
3 organization. And I appreciate that. Okay? And I didn't have  
4 time to go back to read the disclosure statement in full. Can  
5 you tell me with the concessions that have been made -- because  
6 they refer to quite a few agreements -- what the net reduction  
7 in expenses going forward to the debtor will be as a result of  
8 the concessions?

9 MR. WISE: Yes, I can tell you. It is set forth in  
10 the disclosure. And I can also --

11 THE COURT: Walk me through it.

12 MR. WISE: -- maybe amplify it. Okay.

13 (Pause)

14 MR. WISE: Yes, Your Honor. I'm --

15 THE COURT: Bear with me a second.

16 MR. WISE: Sure. So --

17 THE COURT: Just a second.

18 MR. WISE: Sure.

19 (Pause)

20 THE COURT: All right, what page are you on?

21 MR. WISE: Page 28 of the disclosure statement.

22 (Pause)

23 THE COURT: Okay, go ahead.

24 MR. WISE: So on the bottom of page 28, it explains  
25 with respect to the licensing agreement, they've agreed to

1 reduce the amounts payable to Trump Marks Panama, LLC by  
2 approximately fifty percent. I don't have a --

3 THE COURT: Where is that? I didn't --

4 MR. WISE: It's in 4(a) on page 28.

5 THE COURT: How much is it in dollars?

6 MR. WISE: The specific dollars amount --

7 THE COURT: Yes, the specific dollar amount?

8 MR. WISE: My understanding is that the Trump parties  
9 are concerned that we -- if we publicly disclose the specific  
10 dollar amounts, that that's a key component of the confidential  
11 information, Your Honor.

12 THE COURT: So creditors reading the disclosure  
13 statement don't know what -- how much is being saved by the  
14 concessionary amendments?

15 MR. WISE: In an exact dollar amount? No, Your Honor.

16 THE COURT: What else? What other changes? I saw a  
17 million dollar figure somewhere in there. I read this section.  
18 This is what I read this morning. It's hard to follow. Each  
19 of the fees are for many agreements.

20 Mr. Wise, each of the agreements, at least the ones  
21 that I looked at this morning, the main agreements, have ipso  
22 facto clauses such that the filing of the bankruptcy petition  
23 is an event of default. Now, there's certainly a question with  
24 365(e) whether those are enforceable or not. In most cases, I  
25 wouldn't even have an issue about it, but because all the

1 property is in Panama, I do have an issue about it. What's  
2 the -- is there any waiver of the ipso facto clauses in any of  
3 the agreements.

4 MR. WISE: Parties from the Trump --

5 THE COURT: The only way I learned --

6 MR. WISE: -- organization is here.

7 THE COURT: -- about that was by reading the  
8 unredacted documents, and I see the ipso facto clause, even  
9 though there's a New York governing law clause. So do you have  
10 an express waiver of the ipso facto clauses? Don't  
11 creditors -- aren't they entitled to know that the agreements  
12 have ipso facto clauses and the filing of the petition was an  
13 event of default, if they're enforceable?

14 MR. WISE: You mean, in the underlying documents --

15 THE COURT: Yes, the underlying documents --

16 MR. WISE: -- in the amendments --

17 THE COURT: -- each has an ipso facto clause.

18 MR. WISE: -- contain a waiver the ipso clause --

19 THE COURT: Stop. Don't talk when I'm talking.

20 Each of the documents that I reviewed contain an ipso  
21 facto clause that made an event of default, the filing of a  
22 voluntary petition, which has happened here. In all  
23 likelihood, it's not enforceable under 365(e). In most cases I  
24 wouldn't think twice about it. But because all the property's  
25 in Panama, I do think twice about it.



1 Are creditors entitled to know that -- and I think I  
2 saw that Trump was reserving all its rights. So I don't know  
3 whether they've -- have they waived the ipso facto clauses? Is  
4 anybody here from Trump?

5 MR. FLIMAN: Good morning, Your Honor. Daniel Fliman,  
6 with Kasowitz, Benson, Torres & Friedman on behalf of Trump  
7 parties. Your Honor, what we can certainly do is add something  
8 to the unredacted portion of the amendments to make clear --  
9 the deal here would be, Your Honor, that the underlying  
10 agreements would be assumed with the --

11 THE COURT: I saw that. They're being assumed. That  
12 was part of the deal. They were going to be assumed.

13 MR. FLIMAN: And, Your Honor, we can add a provision  
14 into the unredacted portion of these agreements, so that  
15 anybody reviewing them could see that we're not going to use  
16 the bankruptcy filing as a basis for calling any kind of  
17 default.

18 Your Honor, if I could make one more point.

19 THE COURT: Go ahead.

20 MR. FLIMAN: I'm sorry, not to step into the line of  
21 fire on --

22 THE COURT: No, that's okay.

23 MR. FLIMAN: -- this, but --

24 THE COURT: You can step into the line of -- my gripe  
25 is not that -- you filed a joinder and I'm not saying that

1 there isn't a lot of stuff in these agreements that should be  
2 sealed. But if you read my opinions, you know that my  
3 presumption is for redaction. But it's impossible in an  
4 adversary system to know the only other party here who can have  
5 a say in this is the U.S. Trustee. And you dumped this -- not  
6 you personally -- somebody dumps it on the U.S. Trustee this  
7 morning. And you expected her to react to this big, thick  
8 binder of agreements.

9 MR. FLIMAN: Your Honor, I think -- I just wanted to  
10 provide our views. Maybe we could look at it this way.  
11 Because when the debtors came to us and said we understand  
12 there's confidentiality provisions, but we think we should file  
13 the following documents with the plan supplement, our view was  
14 that sure, the amendments, that would make sense that would be  
15 included in the plan supplement. That's something the Court  
16 would need to approve. That's something that's integral to the  
17 plan. That's something that people would need to know about.

18 But the underlying documents are not things that, in  
19 our view, need to even be included in the plan supplement. I  
20 mean, you often have bankruptcy cases where you have a  
21 confirmation, you have a plan supplement, and the documents  
22 that are being assumed don't all be included on the plan  
23 supplement. I mean, that's actually more the exception than  
24 the rule.

25 And so our view was that sure, you could include the

1 amendments, and it makes sense to redact the economic terms on  
2 that, but the underlying documents, I don't think need to be in  
3 the record at all, Your Honor. That's our view. And I just  
4 wanted to throw that into consideration.

5 THE COURT: Okay. Let me -- can you tell me what  
6 the -- because there are amendments to multiple agreements.  
7 Can you tell me what the aggregate savings to the debtor, from  
8 all agreements -- the concessions that are being made in all  
9 the agreements. I mean, isn't that material information that  
10 needs to be disclosed before I -- publicly disclosed, before I  
11 can confirm the plan? I mean, otherwise, who knows what it is?  
12 I don't know what it is. I'm the judge, and I don't know.  
13 Okay?

14 I saw that fifty percent, Mr. Wise, when I looked  
15 through it. Why do you think I asked you the question what's  
16 the dollar savings? Because I have no idea what the dollar  
17 savings is. You talk about these concessions being essential  
18 to the reorganization of the debtor. And it probably is  
19 essential to the reorganization of the debtor.

20 But without knowing what the existing annual costs are  
21 and what they're going to be after, I have no idea what the  
22 impact of these concessions are. I don't approve plans when I  
23 don't understand them. And it's one thing -- yes, I mean, I  
24 read stuff that's under seal. I read this stuff quickly and  
25 don't have the grasp on it. Today's not the confirmation

1 hearing, I understand. But then the question is, do creditors  
2 understand what's the impact.

3 When you say that these concessions are essential to  
4 the reorganization, but you don't tell creditors what the  
5 impact of them are -- how many creditors have signed  
6 confidentiality agreements to get the unredacted documents?

7 MR. WISE: To date there -- no one has signed a  
8 confidentiality agreement.

9 THE COURT: Ms. Golden, how much time do you want to  
10 review the documents?

11 MS. GOLDEN: Well, today is Friday, Your Honor. And I  
12 would like till at least Tuesday or Wednesday.

13 (Pause)

14 THE COURT: Mr. Ashmead, you represent, what? And ad  
15 hoc committee?

16 MR. ASHMEAD: Yes, Your Honor. John Ashmead; Seward &  
17 Kissel; for the steering group. A few observations, Your  
18 Honor.

19 Just to be clear, my group is described as holding  
20 forty-two percent of the principal amount of the outstanding  
21 notes. In fact, two of our holders, before the voting  
22 concluded, but after the record date, bought bonds in the open  
23 market. So we're effectively -- we're over fifty percent of  
24 that group.

25 My group, while not seeing the underlying documents,

1 because we were -- Trump didn't want us to see the underlying  
2 documents either -- did understand the underlying economics  
3 were shared with my group, and that's how we came to our  
4 decisions. I would note -- and it may not be fully  
5 satisfactory to Your Honor, but the projections, of course, on  
6 an aggregated business, in the broker-commission area and the  
7 Trump license fees, in an aggregate numbers, show the result of  
8 those reductions going out. Although it's not broken out, as  
9 we understood, because Trump was very sensitive about breaking  
10 out the specifics and what that may say to --

11 THE COURT: So you represent about fifty percent?

12 MR. ASHMEAD: I think. Yes, over -- I think it's  
13 fifty-two or fifty-three, probably, at this point.

14 THE COURT: So Mr. Wise, have the economics been  
15 disclosed to the other roughly fifty percent of noteholders?

16 MR. WISE: Not beyond what's set forth in the  
17 disclosure statement.

18 THE COURT: This isn't going to fly, Mr. Wise. It's  
19 not going to fly with me. Okay?

20 I don't approve plans when it's a black box that  
21 nobody gets a peek in. It's one thing to say whether the  
22 license agreements -- and you know, Ms. Golden, don't take from  
23 my comments today that I think these license agreements and  
24 operating agreements and management agreements all should be  
25 made public, because I don't feel that way. Okay?

1 Sometimes, as a substitute for the agreements, some  
2 kind of summary sheet that would explain key terms: the  
3 duration, what the term in the agreements are, and some other  
4 key aspects, may -- may -- not necessarily -- may be a  
5 reasonable substitute. But unless the people who are get --  
6 the institutions that are getting to vote on the plan are told  
7 what the economics of the deal are, that is not providing the  
8 transparency that's required to approve a plan.

9 So you're headed to a bad result. You are headed to a  
10 bad result. Go to Panama. If you want to conduct your  
11 proceeding in secrecy, go do it in Panama. Don't do it in this  
12 court in front of me.

13 MR. WISE: With respect to the disclosures with  
14 respect to the Trump concessions, the -- I assume that the  
15 absolute amount of the dollar amount of what that represents in  
16 terms of the contribution based on the projections is the  
17 number that would clarify --

18 THE COURT: I don't know.

19 MR. WISE: -- the issue.

20 THE COURT: You're -- I'm groping at an elephant  
21 blindfolded. All right.

22 Rather than denying the sealing motion without  
23 prejudice, I'm going to continue the matter until Wednesday --  
24 I'm out Monday and Tuesday -- Wednesday at 9 o'clock.

25 Ms. Golden, are you able to make it at 9 o'clock?

1 MS. GOLDEN: Yes, I am, Your Honor.

2 THE COURT: Because I've got matters at 10, 11, 2, 3,  
3 4. But I will continue this sealing motion until Wednesday,  
4 May 22nd, at 9 a.m. You've got to work it out. I'm telling  
5 you right now, you better work this out.

6 And I think I made this clear, Ms. Golden, I'm not --  
7 look, I didn't read every page of what's in here. I spent time  
8 going through it. Because a lot of stuff is clearly entitled  
9 to protection under 107(b). I don't doubt that. Okay? I want  
10 to be sure that creditors voting on this plan have enough  
11 information to make -- you're getting a combined hearing on a  
12 disclosure statement and plan because it's a pre-pack. Right  
13 now, when I went back over this portion of the disclosure  
14 statement this morning, it didn't answer my questions.

15 I looked at documents trying to figure out how they  
16 all fit together, what the costs of -- to the debtor were, what  
17 the concessions were. And I couldn't figure it out. And  
18 that's not good enough for me. And so you're going to get to a  
19 hearing, whether it's May 28th or another day, and I'm going to  
20 say you haven't provided adequate information, because I can't  
21 figure this out. I don't know what the economics are.

22 And I don't think -- Mr. Ashmead may not have seen the  
23 documents, and I don't know the detail -- how much information  
24 he was provided on the economics. He says he understands the  
25 economics of them. I don't doubt that. But there's a lot of

1 noteholders who aren't represented by Mr. Ashmead at this  
2 point. They're being asked -- they voted already, I guess,  
3 from what you said. There was -- what's the percentage of  
4 bonds that voted in favor, pre-petition?

5 MR. WISE: Seventy percent -- slightly over.

6 MR. ASHMEAD: Seventy percent of the aggregate issue,  
7 Your Honor, which a hundred percent of those voting voted in  
8 favor.

9 THE COURT: Right.

10 MR. ASHMEAD: Just to be clear.

11 THE COURT: Right. So all of your group voted in  
12 favor.

13 MR. ASHMEAD: And another --

14 THE COURT: And another twenty percent --

15 MR. ASHMEAD: -- twenty --

16 THE COURT: -- or something.

17 MR. ASHMEAD: Actually, because my group was only  
18 forty-two because the voting deadline, really it was another  
19 thirty percent that voted in favor. With my group, with the --  
20 and the person who sold, or the entity that sold, that was not  
21 a voting party, really it would be much higher, closer to  
22 ninety percent, when you take that.

23 THE COURT: See if you can work out with the U.S.  
24 Trustee and the Trump parties -- I understand they want to  
25 limit what the disclosure is, with Mr. Ashmead. You all ought



1 to see whether you can come up with something that is a  
2 reasonable substitute for the documents. You've got to  
3 disclose enough. So, the ruling for today is to continue the  
4 hearing on the sealing motion until May 22nd at 9 a.m.

5 MR. ASHMEAD: Your Honor, may I just ask a question.  
6 If we resolve it before then, can we alert Your Honor to that  
7 so as --

8 THE COURT: Well, the problem, Mr. Ashmead, is I'm out  
9 of town Monday and Tuesday.

10 MR. ASHMEAD: Oh, okay. I'm sorry.

11 MS. GOLDEN: And also, I have to read it.

12 MR. ASHMEAD: Understood. We're going to help you.

13 MS. GOLDEN: Thank you.

14 THE COURT: Look if you -- if you get it resolved  
15 before then, you can put it in the form of a consent order and  
16 get it to my chambers, and they'll let me know. But it's going  
17 to be difficult.

18 MR. ASHMEAD: Understood, Your Honor. Thank you.

19 THE COURT: And I'll decide before -- your  
20 confirmation hearing may be adjourned, just be very aware of  
21 that. I'm not doing that yet, but you may well get adjourned  
22 because -- let's take it one step at a time.

23 MR. WISE: Understood. One question I have. We were  
24 intending to file a plan supplement at the end of the day  
25 today. There are lots of -- there are additional other

1 documents which we will be prepared to file by the end of the  
2 day today with respect to the indenture. Should I --

3 THE COURT: Go ahead and file as much --

4 MR. WISE: -- assume we should go ahead and file as  
5 much --

6 THE COURT: Yeah, go ahead and --

7 MR. WISE: -- okay.

8 THE COURT: -- file as much as you can.

9 MR. WISE: Thank you.

10 THE COURT: Ms. Golden, is there anything you want to  
11 add? I didn't even -- I mean, obviously, I read your  
12 objection. But I just -- the biggest problem I have is I mean,  
13 you know, you can't hold stuff back from the U.S. Trustee.

14 MS. GOLDEN: Yes, Your Honor. Just -- and it's really  
15 more directed toward the -- toward counsel. Obviously we  
16 understand taking a very aggressive broad view of this. But  
17 there was a history of cases that involved the Trump  
18 organization which takes -- which starts off sort of on this  
19 foot, from when the Plaza Hotel filed fifteen, twenty years  
20 ago --

21 THE COURT: You know, actually, I don't want to hear  
22 about the history.

23 MS. GOLDEN: Okay.

24 THE COURT: I only want to deal with the case that's  
25 before me.

1 MS. GOLDEN: Fair enough. Fair enough. You know, as  
2 Your Honor knows and I think the attorneys in the courtroom  
3 that I've worked with, we do try very hard to work with the  
4 parties. But it really is a two-way street. So we would  
5 appreciate the same courtesies that you would give others.

6 THE COURT: Okay. That completes us for today.

7 MR. WISE: Thank you, Your Honor.

8 THE COURT: All right. We're in recess until 11  
9 o'clock.

10 MR. WISE: Thank you, Your Honor.

11 (Whereupon these proceedings were concluded at 10:46 AM)

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C E R T I F I C A T I O N

I, Penina Wolicki, certify that the foregoing transcript is a true and accurate record of the proceedings.

*Penina Wolicki*

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PENINA WOLICKI

AAERT Certified Electronic Transcriber CET\*\*D-569

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Date: May 20, 2013